IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 208 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

UMESHKUMAR D PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 208 of 2001

Mr. B.M. Mangukia for MR MA PAREKH for Petitioner No. 1

Ms. Pandit, AGP for Respondent No. 1

Ms. Mayaben Desai for MR MD PANDYA for Respondent No. 2

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 16/10/2001

ORAL JUDGEMENT

Heard learned counsel Mr. Mangukia for Mr. A.M. Parekh, learned advocate for the petitioner and Ms.

Pandit, the learned AGP for the respondent No. 1 and Ms. Mayaben Desai for Mr. M.D. Pandya, learned advocate for respondent No.2.

In this petition, rule was issued by order dated 15.1.2001 and notice as to interim relief and hearing of rule both were made returnable on 6.2.2001. The matter was, thereafter, adjourned from time to time.

Brief facts of the present petition are to the effect that the petitioner herein is the power of attorney holder of Shri Ramanbhai B. Patel. According to the petitioner, survey No. 567/3 is admeasuring about 20967 square metres out of which, land admeasuring 9941 sq. mtrs. was handed over by registered sale deed dated 20.9.1977 to Ramanbhai B. Patel and on the very same day, out of the land admeasuring 20967 sq. mtrs., land admeasuring 11026 sq. mtrs. was handed over by registered sale deed to Darji Dwarkesh Society. Thereafter, Town Planning Scheme was introduced and the land of the petitioner admeasuring about 848 sq. mtrs. was acquired and thereafter the petitioner on 18.3.83, by registered sale deed, the land admeasuring about 5455was handed over to ambawadi Coop. Society and thereafter remaining land admeasuring 3638 sq. mtrs. was again fully acquired by the respondent no.2.

In view of that, right from 1996 and even according to the direction of this court and even thereafter, inspite of the directions issued by respondent No.1 issued directions to respondent No.2 VUDA, the respondent No.2 as on date has neither allotted the land of final plot no. 66 of the TP Scheme No. 2 which is the land admeasuring about 1709 sq. mtrs. nor given any single pie for compensation of the land on which the respondent no.2 has constructed telephone exchange as on date.

During the course of hearing, learned advocate Mr. Mangukia has submitted that this court has passed order in special civil application no. 658 of 1999 dated 3rd August, 1999 wherein the representation was made by the petitioner to respondent No.2 and it was directed by this court to respondent No.2 either to decide the said representation or to forward the same to the State Government as it may consider appropriate. This Court has also issued direction that the petitioner's representation to the State Government, if forwarded latest by 4th September, 1999 to the State Government shall be decided as expeditiously as possible and in any case not later than 3rd December, 1999. With the

aforesaid direction, said petition was disposed of by this court. Thereafter, in view of the directions issued by this court in special civil application no. 658 of 1999 dated 3rd August, 1999, the State Government has passed the order on 3.12.1999 with a direction to the respondent NO.2 to consider the representation of the petitioner or vary the TPS Padra.2 under section 71. Under the said order of the State Government dated 3.12.1999, the respondent No.2 was directed to decide the following issues on consideration of the natural justice.

(1) Allotment of the final plot formally to the petitioner.
(2) Entitlement of the compensation, if any, to the applicant.

It was further directed that this decision may be taken in a month's time and VUDA may send a suitable proposal to the State Government for variation of the scheme.

Learned advocate Mr. Mangukia appearing for the petitioner has submitted that in view of the State Government's decision, the petitioner made further representation dated 6.11.2000 to the State Government as well as the representation dated 27th July, 2001 but till this date, no decision has been taken by the respondent No.2 in that regard. Specific averments have been made in para 9 of the petition that inspite of having clear directions issued by the State Government by order dated 3.12.1999, the respondent No.2 has not decided the issue which has been directed by the State Government till this date.

Considering these peculiar facts and circumstances of the case, considering the fact that the specific directions were initially issued by this court on 3.8.99 and thereafter, specific directions were issued by the State Government by order dated 3.12.1999 and pursuant thereto, two representations dated 6.11.2000 and 27.7.2001 were made, inspite of that, respondent no.2 has not decided the issue which has been directed by the State Government till this date and no reply has been given by the respondent No. 2 against the present petition though rule as well as the notice as to interim relief has been made returnable on 6.2.2001 by order dated 15.1.2001, respondent No.2 is required to be directed to pass appropriate orders in accordance with law in view of the directions issued by the State Government by order dated 3rd December, 1999 within some reasonable period.

Therefore, in the result, it is directed to the respondent No.2 to decide the issue which has been framed by the State Government by order dated 3.12.1999 in accordance with law within a period of one month from the date of the receipt of certified copy of this order. It is further directed to respondent NO.2 that after the decision is taken, if any proposal is required to be made to the State Government as per the directions and observations made in the order dated 3.12.1999 by the State Government, then, after receiving any proposal from respondent No.2, it is directed to the State Government to consider the same and pass appropriate orders thereon within some reasonable period. With these observations and directions, present petition is disposed of. Rule is discharged. There shall be no order as to costs. However, it is open for the either of the parties to approach this Court this Court in case of any difficulty.

16.10.2001. (H.K. Rathod,J.)

Vyas